IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No.1286 of 2005 (O&M)
Date of decision: December 7, 2006.

Col. (Retd.) Jagtar Singh

...**Petitioner(s)**

v.

Shri KBS Sidhu & Ors.

...**Respondent(s)**

Present: Shri Gagan Deep Singh, Advocate for the petitioner.

Shri G.S. Cheema, Sr. Dy. Advocate General, Punjab
for respondent No.1.

Shri R.S. Khosla, Advocate,
for respondents No.2 and 3.

Surya Kant, J. (Oral)

As prayed for, CM No.24845-CII of 2006 is allowed. Documents appended with the application are taken on record.

The petitioner, who is an ex-serviceman, applied for allotment of a residential plot at Amritsar which was reserved for members of the defence forces. The application was moved by him on 31.12.1977. On 24.8.1994, the petitioner was informed that no urban estate was being set up at Amritsar, therefore, he may opt for transfer of his application to one of the existing Estates, namely, S.A.S. Nagar, Ludhiana, Jalandhar, Patiala and Bhatinda. The petitioner exercised his option, opting for transfer of his application to S.A.S. Nagar Mohali. However, his name was not included in a draw of lots held on 1.8.1995 though it is claimed that the applications of

other similarly situated applicants were duly considered. Be that as it may, in a subsequent draw held in December 1998, the petitioner was allotted Plot No.69, Sector 69, Mohali at the rate of Rs.3600/- per sq. yard. The petitioner deposited the entire sale consideration amounting to Rs.21,24,019/- along with interest @ 15% per annum as provided in the allotment letter.

The aforesaid rate of Rs.3600/- per sq. yard fixed for plots in SAS Nagar, Mohali came to be challenged in CWP No.8265 of 2000 in which it was held that the allottees could not have been charged more than Rs.1400/- per sq. yard. The petitioner also approached this court by way of CWP No.2281 of 2003 seeking refund of the excess amount charged from him over and above Rs.1400/- per sq. yard. The writ petition was disposed of on 11.2.2003 by directing the respondents to dispose of his pending representation by passing a speaking order. In compliance thereto, the petitioner has been refunded the excess principal amount taken from him by the PUDA authorities.

It was, however, contended on behalf of the petitioner that since the respondents have charged interest from him @ 15% per annum, the excess amount taken from him should also be refunded along with interest at the same rate.

On August 1, 2006, the respondents were directed to file an affidavit explaining:- (i) what was the rate of interest charged from the petitioner; (ii) whether the said interest has been included in the refund made to the petitioner in terms of the order passed by this Court; and (iii) why the respondents are not liable to pay interest on the refund amount.

In response thereto, an affidavit of H.K. Nagpal, Estate Officer,

GMADA, Mohali has been filed, which is taken on record.

The facts are hardly in dispute. It is admitted that the petitioner was charged interest @ 15% per annum but no interest has been paid on the refund amount "because no policy exists in PUDA for paying interest on the refund amount".

The plea taken by the respondents that the interest is not payable because there exists no policy, can neither be sustained in law nor in equity. Once, this Court found that the rate of Rs.3600/- fixed by PUDA for the plots in question was excessive and it could not have been more than Rs.1400/- per sq. yard, there can be no exception but to hold that the petitioner was unauthorizedly charged at a higher rate. Admittedly, he paid interest @ 15% per annum. The respondents cannot take advantage of their own wrongs. The petitioner, therefore, is entitled for the refund of the excess amount at the same rate of interest which he had paid to the respondents.

At the same time, there being a serious dispute with regard to the interpretation of the orders passed by this Court, the respondents cannot be said to be guilty of willful and deliberate breach of such orders.

Consequently, this petition is disposed of with a clarificatory direction that on the excess amount, which has already been refunded to the petitioner, he shall be paid interest @ 15% per annum, within a period of three months from the date of receipt of a certified copy of this order.

Rule discharged.

December 7, 2006. [**Surya Kant**]
kadyan **Judge**